United Nations CTOC/COP/WG.7/2018/1

# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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**Working Group on the Smuggling of Migrants**
Vienna, 4 and 5 July 2018

## Annotated provisional agenda

### Provisional agenda

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.
2. Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations.
3. Preparation of the questionnaire to review the implementation of the Smuggling of Migrants Protocol.
4. Other matters.
5. Adoption of the report.

### Annotations

**1. Organizational matters**

**(a) Opening of the meeting**

The fifth meeting of the Working Group on the Smuggling of Migrants will be opened on Wednesday, 4 July 2018, at 10 a.m.

**(b) Adoption of the agenda and organization of work**

In its resolution 7/1, entitled "Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto", the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided, inter alia, that the Working Group on the Smuggling of Migrants would be a constant element of the Conference, forwarding its reports and recommendations to it, and encouraged the Working Group to consider meeting on an annual basis, as needed, and to hold its meetings consecutively with other working groups of the Conference, in order to ensure the effective use of resources.

At its meeting on 22 January 2018, the extended Bureau of the Conference of the Parties agreed that the fifth meeting of the Working Group would be held in Vienna on 4 and 5 July 2018. Moreover, on 23 March 2018, the extended Bureau agreed,

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using the silence procedure, on the substantive topic of the Working Group for that meeting.

The proposed organization of work (see annex) was prepared in accordance with Conference resolution 7/1 in order to enable the Working Group to perform its mandated functions within the time and according to the conference services available to it. The resources available will permit the holding of four plenary meetings over two days, with interpretation into the six official languages of the United Nations.

## 2. Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations

At the second meeting of the Working Group, held in Vienna from 11 to 13 November 2013, the topic to be considered under agenda item 2 was among those recommended for consideration at future meetings.

Under the proposed topic, the Working Group may therefore wish to discuss the current ability of the criminal justice system to engage in effective investigations aimed at dismantling migrant smuggling networks and bringing high-level suspected perpetrators to justice, while ensuring the protection of the rights of smuggled migrants. It may be particularly relevant for the Working Group to focus on challenges to international cooperation in migrant smuggling cases and approaches adopted to overcome them.

For its consideration of agenda item 2, the Working Group will have before it a background paper prepared by the Secretariat on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations.

*Documentation*

Background paper prepared by the Secretariat on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations (CTOC/COP/WG.7/2018/2)

## 3. Preparation of the questionnaire to review the implementation of the Smuggling of Migrants Protocol

In its resolution 8/2, the Conference decided to continue the process of establishing the mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto based on the recommendations contained in the report on the open-ended intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the Convention and the Protocols thereto, held in Vienna on 6 and 7 June 2016 (CTOC/COP/WG.8/2016/2). In the same resolution, the Conference also decided to elaborate specific procedures and rules for the functioning of the review mechanism, for consideration and adoption by the Conference at its ninth session, which was to be guided by the principles and characteristics set out in Conference resolution 5/5.

Also in its resolution 8/2, the Conference decided that the review mechanism should progressively address all the articles of the Convention and the Protocols thereto for each of the instruments that States parties are parties to, grouped in thematic clusters in accordance with the content of their provisions, and that, in order to review each thematic cluster of articles, the relevant working group should define, in the following two years, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire.

At its fourth meeting, held from 11 to 13 September 2017, the Working Group on the Smuggling of Migrants considered a draft questionnaire prepared by the Secretariat for the review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in accordance with Conference resolution 8/2 (see

CTOC/COP/WG.7/2017/2). The comments and suggestions made at the meeting were set out in a non-paper that was circulated at the request of the Chair as an outcome document of the meeting. For its consideration of agenda item 3, the Working Group will have before it a non-paper containing the amended draft questionnaire for the review of the implementation of the Smuggling of Migrants Protocol, in accordance with Conference resolution 8/2 (CTOC/COP/WG.7/2018/CRP.1). No other documentation is currently expected under this agenda item.

*Documentation*

Non-paper containing a draft questionnaire for the review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (CTOC/COP/WG.7/2018/CRP.1)

**4. Other matters**

As no issues to be raised under item 4 have come to the attention of the Secretariat, no documentation regarding the item is currently foreseen.

**5. Adoption of the report**

The Working Group is expected to adopt a report on its meeting, the draft of which will be prepared by the Secretariat.

# Annex

## Proposed organization of work

| *Date and time* | *Agenda item* | *Title or description* |
|---|---|---|
| **Wednesday, 4 July** | | |
| 10 a.m.–1 p.m. | 1 (a) | Opening of the meeting |
| | 1 (b) | Adoption of the agenda and organization of work |
| | 2 | Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations |
| 3–6 p.m. | 2 | Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations (*continued*) |
| | 3 | Preparation of the questionnaire to review the implementation of the Smuggling of Migrants Protocol |
| **Thursday, 5 July** | | |
| 10 a.m.–1 p.m. | 3 | Preparation of the questionnaire to review the implementation of the Smuggling of Migrants Protocol (*continued*) |
| 3–6 p.m. | 4 | Other matters |
| | 5 | Adoption of the report |



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United Nations CTOC/COP/WG.7/2018/2

# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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2 May 2018

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**Working Group on the Smuggling of Migrants**
Vienna, 4 and 5 July 2018
Item 2 of the provisional agenda*
**Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations**

## Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations

**Background paper prepared by the Secretariat**

## I. Introduction

1. Pursuant to Conference of the Parties to the United Nations Convention against Transnational Organized Crime resolution 5/3, an open-ended intergovernmental interim working group on the smuggling of migrants was established to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

2. At its second meeting, held from 11 to 13 November 2013, the Working Group recommended to the Conference that criminal justice responses, including investigations and prosecutions of perpetrators of migrant smuggling operations, should be one of the topics considered at future meetings of the Working Group.[1]

3. The present background paper was prepared by the Secretariat to aid in the discussions of the Working Group at its fifth meeting. It contains suggestions for specific issues for discussion, provides an overview of the main issues and guidance for response by States and describes a number of recent initiatives in the area of international cooperation to combat the smuggling of migrants.

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[1] CTOC/COP/WG.7/2013/5

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## II. Issues for discussion

4. The Working Group may wish to address the following issues, among others, in its discussions on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations:

(a) How is the smuggling of migrants defined in national legislation? Are national definitions consistent with the definition set out in the Smuggling of Migrants Protocol? Have all forms of related conduct been established as criminal offences?

(b) What aggravating circumstances are recognized under domestic law?

(c) What are the elements of an effective criminal justice response to the smuggling of migrants, in accordance with the purpose and scope of the Smuggling of Migrants Protocol?

(d) What barriers exist to bringing high-level organizers of the smuggling of migrants to justice?

(e) How can practitioners efficiently gather information in the course of investigations into offences related to the smuggling of migrants, including through debriefing and interviewing smuggled migrants?

(f) How can practitioners conduct effective and lawful investigations into social media or other means of communication used by smugglers? How can national investigative authorities effectively and lawfully monitor and detect social media content relating to migrant-smuggling activities?

(g) What is the role of the criminal justice system in protecting the rights of smuggled migrants?

(h) What measures are effective in increasing the capacity of criminal justice practitioners to investigate and prosecute the smuggling of migrants, including in relation to the capacity of those practitioners to engage in international cooperation in criminal matters?

(i) What are good practices in strengthening cross-border investigations into migrant-smuggling cases?

## III. Overview of issues and guidance for response

### A. Elements of an effective criminal justice response to the smuggling of migrants

#### Criminalization

5. The criminalization by States parties of the smuggling of migrants, in accordance with their obligation under the Smuggling of Migrants Protocol, is a central element of any national criminal justice response. In article 3, paragraph (a), of the Protocol, the smuggling of migrants is defined as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident". In addition, in accordance with article 6, paragraph 1 (b) and (c), of the Protocol, States parties are required to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit, the following conduct: (a) producing, procuring, providing or possessing a fraudulent travel or identity document for the purpose of enabling the smuggling of migrants; and (b) enabling a person who is not a national or a permanent resident to remain in a State by producing, procuring, providing or possessing a fraudulent travel or identity document or by any other illegal means.

6. The smuggling of migrants, as defined in article 3, paragraph (a), of the Protocol, is a crime of specific or special intent. Thus, there is no requirement for the financial

or other material benefit to have occurred: the crime of the smuggling of migrants is deemed to have been committed once the relevant physical elements are established along with an intention to obtain a benefit. It is therefore important to note that intention to benefit, rather than actual benefit, is the relevant consideration under the terms of the Protocol.

7. Similarly, it is important to note that the drafters of the Smuggling of Migrants Protocol elected to include "financial or other material benefit" not only as an element of the definition of the offence but also as a requirement for its criminalization. Indeed, the Protocol is clear with regard to the scope of the conduct it requires States to establish as criminal offences. Firstly, the requirement of an intention to secure a financial or other material benefit provided for in the definition of the smuggling of migrants was intended to exclude the criminalization of family members, non-governmental organizations or other support groups for activities to support migrants for humanitarian reasons rather than for profit. Secondly, the smuggled migrants themselves are not regarded as criminally liable under the Protocol; article 5 provides that migrants shall not become liable to criminal prosecution under the Protocol for the fact of having been the object of the smuggling of migrants.

8. States parties are also required, pursuant to article 6, paragraph 3, of the Protocol, to establish as aggravating circumstances to the offences established in accordance with article 6, paragraph 1 (a), (b) (i) and (c), any conduct that endangers, or is likely to endanger, the lives or safety of the migrants concerned, or that entails inhuman or degrading treatment, including for exploitation, of such migrants. They can do so by establishing parallel offences, such as an aggravated smuggling of migrants offence, or by inserting provisions that require courts to consider more severe penalties where aggravating circumstances are a factor in the offence.

9. It is a good practice for States to consider establishing aggravating circumstances other than those set out in the Protocol. States that have adopted that approach have included, inter alia, the following aggravating circumstances in their legislation: (a) the smuggling of a child, a pregnant woman or a person with a disability; (b) the commission of the offence while carrying arms; (c) the commission of the offence by a civil servant; (d) the commission of the offence by an organized criminal group; (e) the seizure or destruction of the travel or identity documents of the smuggled migrant; and (f) the smuggling of large numbers of migrants.

10. Depending on the domestic legislation, some aggravating circumstances may be investigated and prosecuted as distinct offences, for instance where violent treatment of migrants amounts to criminal assault, or where exploitation of smuggled migrants may amount to trafficking in persons. Given the serious impact that those offences have on smuggled migrants, States may wish to consider prioritizing the investigation and prosecution of the smuggling of migrants committed under such circumstances.

11. In order to provide an effective criminal justice response to the smuggling of migrants, it is important not to limit criminalization to completed offences but to extend it to failed attempts to smuggle migrants, and to hold those who participate as accomplices or facilitators criminally liable. It is also crucial to hold those who organize, direct or oversee migrant-smuggling ventures criminally liable. States parties to the Protocol should therefore ensure that their domestic legislation establishes as criminal offences attempting to commit, participating in and organizing or directing other persons to commit the offence of the smuggling of migrants, in accordance with article 6, paragraph 2, of the Protocol.

12. In criminalizing the smuggling of migrants, many States parties to the Protocol have not included a financial or other material benefit as an element of the offence of the procurement of illegal entry, despite the fact that that is a key component of the definition of smuggling of migrants provided in the Protocol. However, focusing on the financial or other material benefit in migrant-smuggling offences has a strategic value for investigations and the broader criminal justice response. The lack of payment of smuggling fees, or their repayment through labour, may indicate that trafficking in persons is taking place. In situations where smuggling is clearly being

undertaken for profit, a focus on the financial aspects of the smuggling crime can help contribute to prosecutions of the high-level organizers or organized criminal groups that may engage in the smuggling of migrants. Such an approach also supports the tracing, freezing and seizure of the assets of organizers, thereby offering an important opportunity to disrupt large smuggling operations.

13. Regardless of whether and how the profit or benefit motive is captured in national legislation, the criminal justice response to the smuggling of migrants should prioritize the investigation and prosecution of organized criminal networks and high-level operators.

**A multidisciplinary approach to the smuggling of migrants**

14. The specific characteristics of and challenges associated with the smuggling of migrants require the use of robust and tailored investigative and prosecutorial techniques. One promising technique is the so-called multidisciplinary approach. It involves close cooperation between various State authorities, as well as the cooperation of those authorities with other relevant stakeholders such as civil society and the private sector; Internet service providers and social media companies are good examples of the latter. In fact, the increased use of social media platforms at different stages of the crime of the smuggling of migrants calls for special attention in the course of investigations.

15. The purpose of the multidisciplinary approach is to map out the journeys taken by migrants from their homes to destination countries and to identify effective measures for disrupting migrant-smuggling ventures. Those measures will be diverse in nature and may include criminal law, administrative, tax-related and private-law instruments.

16. The investigation of the smuggling of migrants usually involves a variety of government departments and other entities and is not limited to law enforcement agencies. National coordination, consultation with key stakeholders and the building of partnerships are crucial in developing an effective criminal justice response. Consultation and partnership-building may be formalized through national coordination frameworks, memorandums of understanding or committee structures. It is also important that all agencies involved in combating the smuggling of migrants share information and communicate on a regular basis.

17. National efforts to counter the smuggling of migrants are often undermined by a lack of effective mechanisms for sharing information and coordinating operational activities among law enforcement agencies, border control authorities and other relevant stakeholders, such as those providing assistance to smuggled migrants.

18. Indeed, a comprehensive criminal justice response to the smuggling of migrants should include measures to protect smuggled migrants, who could also be victims of human rights abuses and exploitation, alongside appropriate measures to prosecute the smugglers. One of the purposes of the Protocol, as indicated in its article 2, is to protect the rights of smuggled migrants. After almost two decades of experience in the implementation of the Protocol, there is broad agreement on the need to strengthen measures to protect migrants and to allow them to play an effective role in the investigation and prosecution of smuggling cases, especially cases with aggravating circumstances.

19. There is therefore a need for States to develop collaborative, long-term, coordinated strategies and well-planned criminal justice interventions against the smuggling of migrants. Planning for action must be based on a sound assessment of both the problem and existing capacities of the criminal justice system to respond to it, and must be supported by a willingness on the part of the various services and agencies involved to cooperate with one another at the national level, and with counterparts at the regional and international levels.

20. Good practices in that regard include: (a) the establishment of multidisciplinary coordination mechanisms or bodies tasked with implementing a coordinated and

integrated national response to the smuggling of migrants; (b) the commitment of adequate resources to support the implementation of a national criminal justice response to the smuggling of migrants; (c) a clear and effective division of labour among government entities dealing with the smuggling of migrants; and (d) evidence that any coordination mechanism that is established adapts to changing circumstances identified through regular ongoing monitoring and evaluation.

21. It is important to regulate coordination, interaction, communication and referrals in the development of investigations into the smuggling of migrants. Standard operating procedures, guidelines or rules are very likely to be of great assistance. For instance, it is vital to regulate the timing of interventions and the role and referral duties of front-line law enforcement officers on the basis of information obtained during the debriefing of smuggled migrants. The same applies to cooperation between different law enforcement units and between those units and other State entities, such as labour, health and sanitation inspectorates. The level and type of regulation might vary according to the needs and specificities of the local context and national law.

22. States may wish to consider appointing a national rapporteur or establishing an equivalent mechanism to monitor the effects of implementation of national policies or action plans on the smuggling of migrants, systematically gather and analyse information from different stakeholders and promote cooperation between State authorities, international organizations, non-governmental organizations and civil society.

**Response to the use by smugglers of web-based services and financial service providers**

23. Smuggling networks often use online services and financial service providers at the various stages of the smuggling process. Collaboration between Governments and the providers of such services is therefore crucial for the successful investigation and prosecution of migrant smuggling operations.

24. The modus operandi of smuggling operations often includes the use of social media, both for recruitment and follow-up arrangements relating to the smuggling journey. Experience has shown that a number of social media platforms are used to advertise smuggling services, provide information on migration routes and facilitate communication between smugglers and smuggled migrants.[2] According to the European Union Agency for Law Enforcement Cooperation (Europol), the use of social media in migrant-smuggling activities has witnessed significant growth over recent years, as communication through such media is fast, easy and allows for better coordination between smugglers on changes in migration routes. Information found to be available on social media includes: specific travel options (including prices); contact details of smugglers; live updates on the progress made by other migrants on their journey; information on the course of action upon arrival in the country of destination, including how to behave in case of arrest and how to respond to the questions of the authorities; and the use of smartphones during the smuggling journey. As such, social media platforms have been described as a "marketplace" for smugglers and smuggled migrants.[3]

25. Moreover, because social media facilitates easier and faster access to up-to-date information, it has increased the capacity of smugglers to change routes in reaction to law enforcement responses in transit countries, thereby increasing the effectiveness of smuggling operations and hindering the investigation and prosecution of such crimes. It is therefore vital to increase the effectiveness of the criminal justice response and to establish incentives and partnerships to enable, where feasible and in

[2] European Migration Network, "The use of social media in the fight against migrant smuggling", (European Commission, September 2016)

[3] Ibid.

accordance with applicable legislation, online service providers to improve the monitoring, detection and reporting of smuggling-related content.

26. In addition, the criminal justice system is likely to require data held by online service providers and social media operators in order to further investigations into the smuggling of migrants. The extent to which it is possible to obtain such data will depend on national legislation (namely, laws on the processing and protection of personal data). It will also depend on any privacy protection contracts that may bind the stakeholders. For that reason, it is extremely important to forge partnerships between online service providers and law enforcement agencies, through which the latter may train the former to detect suspicious content. Online service providers and social media platforms may develop internal policies and systems to react to reports from users, or actively monitor content in order to remove information that relates to migrant-smuggling activities, and/or promptly refer such content to authorities, and/or block content of concern. At the same time, States should also carry out monitoring activities either to detect and request the removal of content related to the smuggling of migrants, or for investigative purposes.

27. The support provided by Europol to Member States in their monitoring activities is useful in developing the capabilities of those States to monitor the use of the Internet by migrant smugglers. The European Union Internet Referral Unit of Europol is aimed at supporting national authorities in their efforts to detect and, where appropriate, request the removal by online service providers of Internet content uploaded by smugglers.

28. It should be emphasized that there are significant challenges in monitoring and obtaining information from social media content, including: anonymity of users; closed accounts; restricted pages; encryption; use of the darknet; and limited resources and considerable costs, especially in view of the large amounts of data that need to be processed and that are written in different languages. The task is further complicated by the fact that a comprehensive algorithm to automate searches for content related to the smuggling of migrants has not yet been developed.[4]

29. Other essential private stakeholders in the context of the investigation and prosecution of the smuggling of migrants are financial service providers such as banks and private money-transfer operators. While it is becoming increasingly difficult to use the formal banking system to transfer and conceal proceeds of the smuggling of migrants, migrant smugglers are using legal money transfer agencies because of their worldwide accessibility and effectiveness.[5] Financial service providers may develop transaction monitoring techniques designed to detect migrant-smuggling activity. They may also use many of the existing controls they have in place to detect illicit proceeds.

30. Given their unique position and expertise — and with proper assistance from law enforcement agencies — financial service providers may be of great use in identifying and monitoring suspicious activity, and in referring that activity to the criminal justice system for further action. For instance, Western Union has established a global investigation network to allow for the monitoring, analysis and investigation of suspicious transactions and the referral of such transactions to law enforcement agencies, as appropriate.

31. Cooperation with financial service providers enables important evidence to be gathered as part of investigations into the smuggling of migrants. It is important to consider that the smuggling of migrants is a crime that is perpetrated for profit. Parallel financial investigations and the "follow-the-money" methodology are therefore key components in an effective criminal justice response to the smuggling of migrants.

[4] Ibid.

[5] European Migrant Smuggling Centre, "First year activity report: January 2016 – January 2017", (The Hague, Europol, 2017), p. 17.

**Debriefing and interviewing smuggled migrants**

32. A critical element of the investigation and prosecution of migrant smuggling operations is the capacity of criminal justice practitioners to effectively debrief and interview smuggled migrants. Those migrants possess unique information about the smuggling venture and it is therefore vital to actively seek their cooperation. However, smuggled migrants are often reluctant to cooperate with the criminal justice system. Many are inherently fearful of the authorities, given their irregular status with regard to entry or residence. They may fear retaliation from smugglers, directed against themselves or even against their families. They may also genuinely feel gratitude towards smugglers for the services provided, coupled with cultural or ethnic connections, or they may have entered into an agreement with smugglers allowing for renewed attempts to reach the country of destination in case of failure. Hence, it is important that State authorities provide the necessary protective measures and other incentives to migrants in order to build trust, provide reassurance and secure their collaboration.

33. The purpose of debriefing is to provide smuggled migrants with an opportunity to speak to law enforcement agencies and voluntarily provide information about the circumstances of their journey. Debriefing should be conducted by trained personnel, including trained law enforcement officers, as soon as possible after migrants are intercepted and/or arrive in the country of transit and/or destination, after any urgent assistance has been provided. The timing of debriefings is key, since it is likely that a person's account will be inaccurate after some time has passed, or they may be reluctant to give information, which increases the possibility that important information or evidence may be lost. Furthermore, as time elapses, there may be increased opportunities for smugglers to interfere in the debriefing process (for example, by offering to continue the smuggling venture, coaching migrants in their responses or threatening them).

34. Migrants who agree to testify against smugglers are often the best resource for prosecutors. Interviewing smuggled migrants as witnesses also requires particular sensitivity to ensure that trust is built between investigators and migrants and that migrants agree to testify. While the Smuggling of Migrants Protocol does not set out specific requirements regarding interviews of smuggled migrants, good practices include providing legal advice to migrants before they are interviewed to ensure that they are aware of the procedure and the consequences of the interview, recording the statements of smuggled migrants using written notes, video or audio equipment, and using specially trained professionals to interview children.

## B. Strengthening the criminal justice response through international cooperation

35. The smuggling of migrants is, by its very nature, a transnational crime. Therefore, the key to an effective and comprehensive criminal justice response lies in strengthened international cooperation between States that are located along smuggling routes or that are otherwise affected by that criminal activity.

36. In addition to the specific framework of collaboration relating to the smuggling of migrants by sea, established by article 8 of the Smuggling of Migrants Protocol, article 10 of the Protocol requires States parties to exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters relating to migrant smuggling operations that affect them.

37. States parties should also make full use of the provisions on international cooperation of the United Nations Convention against Transnational Organized Crime, such as those on extradition (art. 16) and mutual legal assistance (art. 18), which apply to the offences established in accordance with the Smuggling of Migrants Protocol. States should regularly exchange information and expertise, and facilitate direct communication between law enforcement actors in countries located along the same

smuggling routes. In the same vein, regional and transregional initiatives to create channels of communication among criminal justice practitioners, as well as measures that promote the use of joint investigation teams and judicial cooperation between countries of origin, transit and destination to combat the criminal networks involved in the smuggling of migrants, should be encouraged.

38. Good practices to promote international cooperation against the smuggling of migrants include: (a) regional and transregional initiatives to enhance cooperation in investigations into the smuggling of migrants along common routes; (b) the use of the Organized Crime Convention and the Smuggling of Migrants Protocol as bases for international cooperation in the absence of regional cooperation instruments or bilateral agreements; (c) the establishment and use of common platforms to share information among law enforcement agencies in different countries; and (d) the appointment of liaison officers to coordinate requests for assistance and information.

39. A number of promising initiatives to promote international cooperation against the smuggling of migrants are currently ongoing and should be highlighted. For example, international cooperation against the smuggling of migrants can be enhanced by strengthening the understanding of practitioners and their capacity to cooperate and exchange information within regional networks. In that respect, the Ibero-American Association of Public Prosecutors took a significant step in reinforcing international cooperation against the smuggling of migrants. In November 2017, the Association endorsed a revised version of its inter-institutional protocol to strengthen investigations and the care and protection of victims of trafficking, which was expanded to cover cooperation in cases of smuggling of migrants. The revised protocol provides for the exchange of information on good practices relating to the prevention of and fight against the smuggling of migrants, as well as the sharing of information on domestic judgments related to the crime.

40. With regard to international cooperation, the United Nations Office on Drugs and Crime (UNODC) promotes interaction and collaboration across borders to combat the smuggling of migrants in many regions of the world. The Office has, inter alia, supported the focal points of the Network of West African Central Authorities and Prosecutors against Organized Crime in enhancing their knowledge and analysis of the phenomenon of the smuggling of migrants. Connecting that Network or other regional networks with countries of origin, transit and destination outside the region would also assist States in achieving successful prosecutions in order to dismantle transregional smuggling networks.

41. Moreover, through its Regional Office for South-East Asia and the Pacific, UNODC has been working with a network of 30 investigators from nine countries in Asia through a combination of workshops and long-term mentoring. Those activities have strengthened working relationships among participating national agencies, reinforced information-sharing across the region and enabled data-sharing that has led to the identification of hitherto unknown migrant-smuggling routes.

42. The development of investigation protocols and action plans at the regional level to promote a common understanding of and responses to the smuggling of migrants and to guide investigative activity is also a good practice. In South-Eastern Europe, a region significantly affected in recent years by the smuggling of migrants, UNODC has supported a series of regional expert group meetings that have brought together criminal justice practitioners to exchange experiences and good practices in relation to the cross-border investigation and prosecution of the smuggling of migrants, focusing in particular on the detection and disruption of financial flows generated by that criminal activity. Those meetings have provided experts with an opportunity to engage in in-depth discussion of perspectives, challenges, good practices and achievements in their jurisdictions. The concrete outcome of those meetings will be a protocol summarizing activities undertaken to detect the smuggling of migrants, track financial flows and identify assets resulting from that crime. The protocol will be a valuable tool for enhancing cooperation among institutions and entities working to detect and suppress the smuggling of migrants in South-Eastern Europe.

43. Furthermore, the UNODC Regional Office for West and Central Africa is leading an innovative project aimed at increasing information-sharing and communication in investigations into the smuggling of migrants and other crimes in countries of origin, transit and destination. Under the project, a prosecutor from a country in Africa is sent to Sicily, Italy, with the aim of: (a) providing information on the legal framework in his or her country; (b) sharing background information on the criminal networks involved in the smuggling of migrants in his or her country; and (c) following up on formal requests for mutual legal assistance and extradition submitted through the appropriate channels. The expertise thus provided is aimed at strengthening mutual trust and improving understanding of the way in which criminals operate in the country in which the prosecutor works.

44. In addition, the prompt and reliable exchange of information between investigative authorities is vital for successful investigations. States should therefore exchange information on the basis of bilateral or multilateral agreements, or on a voluntary basis, in compliance with national legislation; effective channels of communication are paramount. An example of an established system of cooperation that facilitates the exchange of information at the regional level is the Europol system of analysis work files. Analysis work files are operational support tools for active investigations, in which information derived from the investigations conducted by member States is stored. Europol can then analyse the information contained in a file and provide that analysis to member States to enhance their investigations.

45. In addition, the complexity of investigating and prosecuting the smuggling of migrants calls for the regular training of criminal justice practitioners and investment by States in capacity-building. Training may cover a variety of subjects, such as how to recognize and detect fraudulent travel or identity documents, how to gather intelligence on organized criminal groups, the modus operandi of smugglers, how to identify smuggled migrants, the debriefing of migrants, the protection of migrants' rights, financial investigations and avenues for international law enforcement and judicial cooperation.

46. Joint capacity-building activities on the smuggling of migrants, involving participants from several countries, are also a means of reinforcing trust and strengthening cross-border communication channels. A good example of such efforts is the training workshop for the detection, investigation and prosecution of the smuggling of migrants, which was organized at a border crossing point by the UNODC Liaison and Partnership Office in Mexico and which brought together practitioners from the United States of America and Mexico. That bilateral training activity promoted interaction, information-sharing and international coordination among peers from the two countries. The workshop followed a new and innovative methodology, involving a simulation and a blended-learning approach, including the use of e-learning, with the overall aim of increasing investigations, prosecutions and convictions while protecting the rights of smuggled migrants.

47. Finally, exchange programmes between law enforcement agents in countries of origin and destination could: (a) promote capacity-building in the country of origin; (b) foster important cultural and linguistic knowledge regarding the country of origin that could be very useful to the country of destination; and (c) reinforce trust and build contacts that could be used at a later stage (through informal cooperation or as a basis to progressively develop effective formal cooperation).

# IV. Key tools and recommended resources

48. The tools and resources listed below are all available on the UNODC website (www.unodc.org).

**Toolkit to Combat Smuggling of Migrants**

The UNODC *Toolkit to Combat Smuggling of Migrants* provides guidance, showcases promising practices and recommends resources in various thematic areas to assist

countries in implementing the Smuggling of Migrants Protocol. Tool 1 of the Toolkit provides an overview of the crime of smuggling of migrants. Tool 5 sets out the legislative framework for criminalizing the smuggling of migrants, and tool 7 covers law enforcement and prosecution.

**Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants**

The UNODC *Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants* contains a standardized and cross-referenced set of measures designed to enable Government officials in immigration, customs and law enforcement agencies and United Nations agencies, as well as other organizations, various industry actors and individuals, to conduct comprehensive assessments of national systems in order to identify areas of technical assistance, to assist in the design of interventions that incorporate international standards and norms on the prevention and suppression of the smuggling of migrants, and to assist in training on those issues.

**Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants**

The UNODC *Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants* is a practical guide and training tool for criminal justice practitioners around the world. Individual modules are designed to be readily adapted to the needs of different regions and countries and can serve as a basis for upgrading or supplementing the training programmes of national training institutes. Module 1, on concepts, and module 7, on legislative issues, are relevant to the criminalization of the smuggling of migrants and related conduct. Module 5 addresses special investigative techniques.

**In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants**

The UNODC *In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants* builds on the *Basic Training Manual* to promote a common understanding of relevant concepts and encourages States parties to adopt a mutually reinforcing approach in their responses to the smuggling of migrants, which is a form of transnational organized crime. The Manual offers a practical approach to the investigation and prosecution of the smuggling of migrants by providing promising practices relevant to all countries of origin, transit and destination, regardless of their legal system. Module 10 addresses special investigative techniques, while module 14 covers common legal issues in the investigation and prosecution of the smuggling of migrants.

**Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto**

The main purpose of the UNODC *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* is to assist States in implementing the Convention and its Protocols. The *Legislative Guides* address, inter alia, criminalization and other measures to combat money-laundering and corruption, and other provisions of the Organized Crime Convention.

An updated version can be found under the heading "Legislative guide" on the Sharing Electronic Resources and Laws on Crime knowledge management portal (https://sherloc.unodc.org).

**International Framework for Action to Implement the Smuggling of Migrants Protocol**

The UNODC *International Framework for Action to Implement the Smuggling of Migrants Protocol* is a technical assistance tool to help States parties and non-State actors to identify and address gaps in their response to the smuggling of migrants in

accordance with international standards. It draws on international instruments, political commitments, guidelines and best practices to propose a comprehensive approach to preventing and combating the smuggling of migrants. Part two of the *Framework for Action* contains an overview, in the form of four tables, of the following topics: prosecution and investigation; protection and assistance; prevention; and cooperation and coordination.

**Model Law against the Smuggling of Migrants**

The aim of the UNODC *Model Law against the Smuggling of Migrants* is to assist States in implementing the Smuggling of Migrants Protocol by facilitating the review and amendment of existing legislation and adoption of new legislation using model provisions. Its chapters cover the criminalization of the smuggling of migrants, protection and assistance measures in respect of smuggled migrants, coordination and cooperation between agencies, cooperation in respect of the smuggling of migrants at sea, and processes related to the return of smuggled migrants.

**Smuggling of Migrants Knowledge Portal and case law database**

In October 2016, UNODC launched the Smuggling of Migrants Knowledge Portal, which includes a case law database. The database is aimed at enabling judges, prosecutors, policymakers, the media, researchers and other interested parties to broaden their knowledge of how different States use their laws to combat the smuggling of migrants, with the ultimate goal of contributing to enhancing the global criminal justice response. The database is an essential tool for increasing the visibility of successful prosecutions, identifying global patterns and promoting awareness of the realities of that crime. The database currently consists of over 750 smuggling of migrants cases from 39 jurisdictions.

**The Concept of "Financial or Other Material Benefit" in the Smuggling of Migrants Protocol: Issue Paper**

Recognizing the critical importance of a common understanding of the internationally agreed definition of the smuggling of migrants, UNODC has undertaken a study on the "financial and other material benefit" element of that definition. The issue paper contains an examination of legislation and case law among a broadly representative group of States in order to gain a comparative perspective on how that aspect of the definition has been understood and applied. Particular attention is paid to the experiences and views of practitioners who are involved in investigating and prosecuting the smuggling of migrants and related crimes.

**Organized Crime Involvement in Trafficking in Persons and Smuggling of Migrants: Issue Paper**

UNODC commissioned the Institute for International Research on Criminal Policy of Ghent University, Belgium, to carry out a study into the involvement of organized criminal groups in trafficking in persons and the smuggling of migrants. The purpose of the study was to develop appropriate criminal justice responses to trafficking in persons and the smuggling of migrants as forms of organized crime that require a knowledge-based response.

**Corruption and the Smuggling of Migrants: Issue Paper**

The aim of this UNODC issue paper is to assist policymakers and practitioners in preventing and addressing corruption related to the smuggling of migrants. Rather than reviewing all successful practices in the prevention of the smuggling of migrants, it focuses more narrowly on the prevention of corruption activities that facilitate the smuggling of migrants or defeat efforts to control it. The issue paper contains a review of the available evidence on the links between corruption and the smuggling of migrants, including the way in which corruption facilitates the smuggling of migrants and undermines efforts to control it. It covers different forms of corruption associated

with the smuggling of migrants in both the public and private sectors, and contains examples of cases of the smuggling of migrants that involved corruption.

**The Role of Organized Crime in the Smuggling of Migrants from West Africa to the European Union**

This UNODC report contributes to a better understanding of the underlying mechanisms and actors involved in the smuggling of migrants and serves as a basis for policy reforms in the countries in West Africa that it covers. The report is aimed primarily at decision makers, law enforcement and judicial officials, but also at a wider audience interested in irregular migration.

**Digest of Organized Crime Cases**

The aim of the UNODC *Digest of Organized Crime Cases* is to provide policymakers and criminal justice practitioners with an analysis of concrete cases and related good practices. The *Digest* explains all the stages of the criminal justice response, including legislation, investigation, prosecution and adjudication, as well as international cooperation. Through the use of illustrative cases, the *Digest* sets out the successes of and difficulties encountered by practitioners, and contains a reflection on the current situation with regard to efforts to combat organized crime around the world.

**Mutual Legal Assistance Request Writer Tool**

The UNODC Mutual Legal Assistance Request Writer Tool is a tool to assist States in drafting requests for international cooperation and assistance. It can be used by persons with virtually no previous knowledge of or experience in drafting assistance requests. It guides users step by step through the request process for each type of mutual assistance using a series of templates, consolidates all data entered and automatically generates a correct, complete and effective request for final editing and signature. The Tool can be adjusted to any country's substantive and procedural law, enables users to retrieve information on treaties and national legislation and features a case-management tracking system for incoming and outgoing requests.

United Nations CTOC/COP/WG.7/2018/3*

# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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## Report on the meeting of the Working Group on the Smuggling of Migrants held in Vienna on 4 and 5 July 2018

## I. Introduction

1. Pursuant to resolution 5/3, adopted by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its fifth session, an open-ended intergovernmental interim working group on the smuggling of migrants was established to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. The first meeting of the Working Group was held from 30 May to 1 June 2012, the second from 11 to 13 November 2013, the third from 18 to 20 November 2015 and the fourth from 11 to 13 September 2017.

2. In its resolution 7/1, entitled "Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto", the Conference decided, inter alia, that the Working Group would be a constant element of the Conference of the Parties, forwarding its reports and recommendations to the Conference, and encouraged the Working Group to consider meeting on an annual basis, as needed, and to hold its meetings consecutively, in order to ensure the effective use of resources.

3. In its resolution 8/2, the Conference decided to continue the process of establishing the mechanism for the review of the implementation of the Convention and the Protocols thereto based on the recommendations contained in the report on the meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto, held in Vienna on 6 and 7 June 2016 (CTOC/COP/WG.8/2016/2). In the same resolution, the Conference also decided to elaborate specific procedures and rules for the functioning of the review mechanism for consideration and adoption by the Conference at its ninth session, which was to be guided by the principles and characteristics set out in Conference resolution 5/5.

4. In resolution 8/2, the Conference further decided that the review mechanism would progressively address all the articles of the Convention and the Protocols thereto for each of the instruments that States parties were parties to, grouped in thematic clusters in accordance with the content of their provisions and that, in order to review each thematic cluster of articles, the relevant working group would, in the following two years, with the assistance of the Secretariat, define a short, precise and focused self-assessment questionnaire.

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5. Also in resolution 8/2, the Conference requested all States parties to submit responses to the existing questionnaires on the implementation of the Convention and the Protocols thereto.

# II. Recommendations

6. At its meeting held in Vienna on 4 and 5 July 2018, the Working Group on the Smuggling of Migrants adopted the recommendations presented below for consideration by the Conference.

## A. Recommendations on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations

7. States parties should:

(a) Facilitate, where possible, capacity-building assistance directed at training competent law enforcement and criminal justice authorities in combating smuggling of migrants;

(b) Identify focal points at the national level, preferably within specialized competent services, for addressing the smuggling of migrants, and facilitate regular exchanges of best practice between those focal points;

(c) Take measures to build trust with smuggled migrants, with the aim of facilitating cooperation with law enforcement officials;

(d) Take measures, consistent with their obligations under the Protocol, to ensure a comprehensive criminal justice response regarding the smuggling of migrants addressing appropriate measures to prosecute the smugglers, together with measures to protect smuggled migrants, especially children and adolescents who have been the object of the conduct set forth in article 6 of the Protocol.

8. States parties should consider:

(a) Promoting effective international cooperation, including mutual legal assistance, and the exchange of information, between countries of origin, transit and destination, on smuggling of migrants cases, including through and in accordance with the Organized Crime Convention;

(b) Responding to the transnational criminal networks involved in migrant smuggling cases through cooperation and information-sharing between law enforcement authorities in source, transit, and destination countries, and provide training to enable these types of transnational investigations, consistent with the goals of the Organized Crime Convention and the Smuggling of Migrants Protocol;

(c) Ensuring mutual legal assistance at the regional level between judicial authorities, as appropriate, including through existing networks and mechanisms;

(d) Where appropriate and in accordance with domestic legislation, seconding representatives of competent authorities, including liaison magistrates and other experts, between countries along the same smuggling route, with the aim of facilitating contact and sharing information on criminal networks involved in the smuggling of migrants, and following up on requests for mutual legal assistance;

(e) Promoting effective communication with consular officers, as appropriate and in accordance with the Protocol and the Vienna Convention on Consular Relations, to facilitate assistance to smuggled migrants;

(f) Establishing regional and bilateral cooperation agreements, as appropriate, to facilitate assistance to smuggled migrants of countries that do not have diplomatic representation in the territory where the person object of this crime is located;

(g) Providing the Conference of the Parties with information related to emerging forms, challenges and international cooperation tools in smuggling of migrants cases, including data on the implementation of the Smuggling of Migrants Protocol or the Organized Crime Convention to combat the smuggling of migrants;

(h) Strengthening where necessary capacity-building and training efforts, including of immigration and border management officials, as well as information-sharing between border management authorities in origin, transit and destination countries, as a key component of any effective strategy to tackle the crime of the smuggling of migrants;

(i) Providing technical assistance to countries along migrant smuggling routes in accordance with article 14, paragraph 3, of the Protocol;

(j) Providing bilateral, regional and international training opportunities to enhance the capacities of national competent authorities to prevent and counter migrant smuggling, including through the use of mock investigations and trials;

(k) Reviewing domestic procedures and practices related to international cooperation to enhance mutual legal assistance in investigations, cross-border collaboration, prosecutions and judicial proceedings where appropriate, related to the smuggling of migrants, and facilitate consultation in the context of extradition requests in accordance with applicable international and domestic law.

### B. General recommendations

9. States parties should address the underlying causes of the smuggling of migrants in a comprehensive, coordinated and direct manner at the national, bilateral, regional and international levels, taking into account the socioeconomic realities of migration and paying special attention to economically and socially depressed areas.

10. States parties should consider:

(a) Protecting and ensuring the rights and dignity of smuggled migrants while combating smuggling of migrants, giving particular attention to women and children;

(b) Establishing or enhancing appropriate channels and laws for regular and orderly migration, as a way to reduce the danger posed by smuggling organizations;

(c) Ensuring the full implementation of article 5 and article 6, paragraph 4, of the Protocol;

(d) Providing support to enable the United Nations Office on Drugs and Crime (UNODC) to increase its efforts to counter smuggling of migrants, in particular technical assistance to build related competent authorities' capacities and knowledge;

(e) Contributing to the extent possible to the UNODC Case Law Database on the Smuggling of Migrants.

11. The Working Group recommended that the Conference of the Parties consider adopting the questionnaire on the smuggling of migrants as approved by the Working Group.

## III. Summary of deliberations

12. At the beginning of the meeting of the Working Group on 4 July 2018, general statements were made by the representatives of El Salvador, Uruguay and the European Union. All three speakers stressed the importance of upholding the human rights of migrants, including the need to refrain from criminalizing migrants.

13. The representative of Uruguay stressed that it was in the interest of States to address the underlying causes of the smuggling of migrants in a coordinated and direct way and to encourage broad social and economic policies for education, crime

prevention, health and justice, in order to avoid situations that gave rise to the smuggling of migrants. The speaker stressed the importance of international cooperation at the official and informal levels. While recognizing the right of States to develop and implement policies governing migratory flows within their territory, the speaker called for States to avoid violations of human rights of migrants and their families, especially those of vulnerable persons and children. The speaker emphasized that refusing to allow boats containing migrants to dock and incarcerating children in jails, separate from their parents, were morally inexcusable violations of the most elemental ethical rules.

14. The representative of the European Union, speaking on behalf of the European Union and its member States, stressed the role of criminal networks in placing migrants in dangerous situations, violating their fundamental rights and even causing death. Despite efforts to disrupt migrant smuggling criminality and protect migrants, smuggling to and through the European Union continued to be a reality, necessitating the reinforcement of transnational cooperation, including cooperation at the level of the European Union, with strategic partners, international organizations and civil society. It was noted that the Smuggling of Migrants Protocol continued to have a key role to play, as did UNODC as one of the European Union's primary partners in this field.

15. The representative of El Salvador highlighted the importance of international cooperation in enabling origin, transit and destination countries to dismantle smuggling networks and ensure the protection of the human rights of all migrants and families. El Salvador condemned policies and regulations that promoted arbitrary detention of migrant children and separated them from their families, and called for criminal justice responses to be comprehensive and take into account the rights of migrants and their families. The speaker noted that there were State obligations in that respect that existed outside of the Smuggling of Migrants Protocol. The speaker also called on States parties to support negotiations on the Global Compact on Safe, Orderly and Regular Migration as an excellent opportunity to address the challenges of migration as well as its contribution to sustainable development.

16. Under agenda item 2, the Working Group resumed discussions on the draft questionnaire by returning to specific questions on which there were outstanding concerns, following the two readings of the document at the previous meeting of the Working Group.

17. In the discussion on the item, a number of speakers stressed the need to ensure the questionnaire's consistency with the language of the Smuggling of Migrants Protocol, calling for questions that went beyond the scope of the Protocol not to be included in the questionnaire. One speaker suggested making a recommendation to the Conference of the Parties for guidance on how to deal with questions that went beyond the scope of the instrument.

18. A number of speakers expressed a desire to avoid duplication between the questionnaire on the smuggling of migrants and the questionnaire dealing with the Organized Crime Convention, reiterating that several questions would be better placed in the questionnaire related to the Organized Crime Convention.

19. On the basis of comments made during the third reading of the text, the Chair developed a revised version of the non-paper containing the draft questionnaire.

20. The Working Group then considered item 3 on the agenda, entitled "Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations".

21. The discussion under agenda item 3 was facilitated by Mr. Kamel Samir, Chief of the Office for International Cooperation at the Office of the Prosecutor General of Egypt, on behalf of the Group of African States; Mr. Enrique Octavio Baeza Pulido, Official of the Federal Public Prosecutor's Office, Specialized Unit for Investigation of Trafficking in Minors, Persons and Organs at the Special Attorney's Office for Organized Crime Investigation, Attorney-General's Office of Mexico, on behalf of

the Group of Latin American and Caribbean States; and Mr. Pravit Roykaew, Senior Expert Public Prosecutor of Thailand, on behalf of the Group of Asia-Pacific States.

22. Mr. Samir delivered a presentation regarding Egypt's experience in investigating and prosecuting perpetrators of migrant smuggling. The panellist outlined the applicability of the Constitution of Egypt of 2014 and Law 82 of 2016 on combating illegal migration and smuggling of migrants to Egypt's response to smuggling of migrants that went beyond the Protocol in the criminalization of acts of smuggling and the rights given to victims. He noted that the Egyptian National Coordination Committee for Preventing and Combating Illegal Migration, as a group of 26 national stakeholders, worked to address national and international coordination between policies, plans and programmes to prevent and combat illegal migration and protect smuggled migrants and witnesses, including their rights to legal aid, privacy, confidentiality and psychological assistance. The panellist also outlined the good cooperation between the Public Prosecution Office of Egypt and UNODC, providing examples of national, regional and international initiatives to counter smuggling of migrants, mentioning in particular the African experience. The panellist noted that the Prosecutor General of Egypt was acting as Vice-President of the African Prosecutors Association.

23. Mr. Baeza Pulido delivered a presentation on Mexico's experience with the smuggling of migrants, outlining the primary routes and nationalities of those detected. The panellist highlighted the often deplorable conditions in which migrants were smuggled. He also noted the recent use of ride-hailing services, whose drivers were often unaware that they were assisting organized criminal networks. The panellist noted that in Mexico, smuggled migrants were no longer treated as criminals but as victims entitled to a range of human rights protections. While those migrants could be compelled to make a statement in court, a number of protection measures were implemented where that occurred. The panellist highlighted the good cooperation with the Ibero-American Association of Public Prosecutors, as well as with UNODC through the national training programme on preventing and combating migrant smuggling in Mexico (SOMMEX), which provided a range of tailored assistance in preventing and combating the smuggling of migrants.

24. Mr. Roykaew described the experience in Thailand. He explained the areas of overlap between the smuggling of migrants and trafficking in persons. While the limited availability of data in Thailand made it difficult to determine the real magnitude of the problem, UNODC figures indicated that of some 660,000 irregular migrants entering Thailand per year, an estimated 80 per cent relied on the services of smugglers. He noted the considerable demand for low-skilled migrant workers in sectors such as fishing, agriculture and domestic work, and the lack of economic opportunities in the countries of origin. Current challenges that Thailand faced included the low risk of detection at some official border checkpoints, difficulties in obtaining information from smuggled migrants and the limited use of mutual legal assistance channels within the region of the Association of Southeast Asian Nations. The speaker noted that at present, Thailand did not have a specific law dealing with the smuggling of migrants, meaning that smuggled migrants were addressed under immigration legislation and generally deported once detected. However, a new draft law would provide an improved scope for addressing migrant smuggling and should enable Thailand to ratify the Smuggling of Migrants Protocol by the end of 2018.

25. During the question-and-answer session following the panellists' presentations, several States parties highlighted the considerable areas of overlap between the smuggling of migrants and trafficking in persons that existed on the ground, and the need for investigators and prosecutors to have sufficient knowledge and expertise to respond accordingly.

26. Several States parties emphasized the importance of addressing root causes contributing to smuggling of migrants and taking preventative measures, including awareness-raising activities, while also enhancing legal migration channels.

27. States parties exchanged views on approaches taken to mutual legal assistance and extradition requests relating to smuggling of migrants. Several noted a good level of coordination with other countries, including through informal communication prior to formal submission of requests, as well as prior to final decisions thereon. The need to be able to readily identify authorities responsible for sharing such information was highlighted.

28. A number of States parties took the opportunity to deliver national statements. In doing so, many States parties stressed the importance of the Global Compact on Safe, Orderly and Regular Migration, which they hoped would provide practical tools to protect the rights of smuggled migrants, regardless of their migratory status.

29. Many speakers, while recognizing the sovereign right of States parties to implement policies governing migration, stressed the importance of the non-criminalization of smuggled migrants and the need for broad human rights protection. Several States parties expressed serious concerns regarding restrictive border policies and the detention of children, in particular when separated from their families. Several speakers also noted that implementing security measures without addressing the socioeconomic causes of migration yielded limited success.

30. Many States parties stressed that international cooperation was the best means of tackling smuggling of migrants in a comprehensive and integrated manner. Strengthening regional approaches was identified as a key aspect of such cooperation.

31. A number of States parties noted the importance of the role of UNODC in facilitating technical assistance in promoting ratification and implementation of the Smuggling of Migrants Protocol, with one speaker urging other States parties to increase support provided to the efforts of UNODC to counter the smuggling of migrants. The value of UNODC tools, including the Smuggling of Migrants Knowledge Portal, was also highlighted.

32. The Working Group finalized the consideration of the questionnaire. In doing so, the Working Group underlined that references to the applicability of special investigative techniques and asset recovery tools to migrant smuggling offences should be included in the questionnaire relating to the Organized Crime Convention.

33. The Chair, upon approval of the questionnaire by the Working Group, noted that the adopted questionnaire would be attached as an annex to the report of the meeting.

# IV. Organization of the meeting

## A. Opening of the meeting

34. The Working Group on the Smuggling of Migrants met in Vienna on 4 and 5 July 2018. Four meetings were held.

35. The meeting was opened by Francesco Testa (Italy), Chair of the Working Group. He addressed the meeting and presented an overview of the mandate of the Working Group, its objectives and the subjects under its consideration.

36. At the opening of the meeting, a statement was made by the representatives of El Salvador, the European Union (on behalf of the States members of the European Union) and Uruguay.

## B. Statements

37. General introductory statements were made by a representative of the Secretariat under agenda items 2 and 3.

38. With the Chair presiding, the discussion under agenda item 3, entitled "Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations", was led by the

following panellists: Kamel Samir (Egypt), Enrique Octavio Baeza Pulido (Mexico) and Pravit Roykaew (Thailand).

39. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Smuggling of Migrants Protocol: Algeria, Brazil, Canada, Cuba, Dominican Republic, Egypt, Fiji, Germany, India, Italy, Japan, Mexico, Namibia, Nigeria, Paraguay, Spain, Turkey, United States of America, Uruguay and Venezuela (Bolivarian Republic of).

40. The observers for Iran (Islamic Republic of), Morocco and the Sudan also made statements.

## C. Adoption of the agenda and organization of work

41. At its 1st meeting, on 4 July 2018, the Working Group adopted by consensus the following agenda, as orally amended:

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.
2. Preparation of the questionnaire to review the implementation of the Smuggling of Migrants Protocol.
3. Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations.
4. Other matters.
5. Adoption of the report.

## D. Attendance

42. The following parties to the Smuggling of Migrants Protocol were represented at the meeting: Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Bahrain, Belgium, Brazil, Canada, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, European Union, Fiji, France, Gambia, Germany, Greece, India, Iraq, Italy, Japan, Kazakhstan, Kuwait, Lebanon, Libya, Luxembourg, Malta, Mexico, Myanmar, Namibia, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovakia, Slovenia, South Africa, Spain, Switzerland, Syrian Arab Republic, Tajikistan, Turkey, United Kingdom of Great Britain and Northern Ireland, United States, Uruguay and Venezuela (Bolivarian Republic of).

43. The following States signatories to the Smuggling of Migrants Protocol were represented by observers: Bolivia (Plurinational State of), Sri Lanka and Thailand.

44. The following States that are not parties or signatories to the Smuggling of Migrants Protocol were represented by observers: Iran (Islamic Republic of), Israel, Malaysia, Morocco, Nepal, Pakistan, Singapore, Sudan, United Arab Emirates and Yemen.

45. The Office of the United Nations High Commissioner for Refugees was represented by an observer.

46. The Sovereign Military Order of Malta, an entity maintaining a permanent Observer Office, was represented by an observer.

47. The following intergovernmental organizations were represented by observers: Commonwealth of Independent States, Food and Agriculture Organization of the

United Nations, Gulf Cooperation Council, International Criminal Police Organization (INTERPOL) and Parliamentary Assembly of the Mediterranean.

48. A list of participants is contained in document CTOC/COP/WG.7/2018/INF/1/Rev.1.

### E. Documentation

49. The Working Group had before it the following:

(a) Annotated provisional agenda (CTOC/COP/WG.7/2018/1);

(b) Background paper prepared by the Secretariat on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations (CTOC/COP/WG.7/2018/2);

(c) Non-paper containing a draft questionnaire for the review of the implementation of the Smuggling of Migrants Protocol, in accordance with Conference resolution 8/2 (CTOC/COP/WG.7/2018/CRP.1).

## V. Adoption of the report

50. On 5 July 2018, the Working Group adopted the present report on its meeting (CTOC/COP/WG.7/2018/L.1, CTOC/COP/WG.7/2018/L.1/Add.1 and CTOC/COP/WG.7/2018/L.1/Add.2).

## Annex

# Questionnaire for the review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

1. At its eighth session, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided to continue the process of establishing the mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, and that such mechanism should progressively address all the articles contained in the Convention and the Protocols thereto (Conference resolution 8/2).

2. The Conference also decided that the review mechanism should be conducted within the Conference and its existing working groups, which should add the matter as an item to their agenda, consistent with their areas of expertise and without prejudice to their respective existing mandates, and that for that purpose, each relevant working group should define, in the following two years, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire.

3. The present questionnaire was developed pursuant to this mandate, to collect information from States parties and signatories to the Protocol against the Smuggling of Migrants by Land, Sea and Air, in accordance with Conference resolution 8/2.

4. The questionnaire builds on previous information-gathering questionnaires developed by the Secretariat and adopted by the Conference at its first and second sessions and covers all relevant provisions of the Protocol. The questionnaire has also been aligned with the *International Framework for Action to Implement the Smuggling of Migrants Protocol* (2012), a key technical assistance tool developed and widely used to support United Nations Member States in the effective implementation of the Smuggling of Migrants Protocol.

5. The questionnaire is based on the following general principles:

(a) In order to avoid the need for extensive interpretation, questions contain language on concrete measures instead of generic references to the Protocol and Convention provisions;

(b) Questions aim at providing a basis for the review of the legislative transposition as well as the practical implementation of measures provided in the Protocol;

(c) Questions also relating to the mutatis mutandis application of the Convention on specific matters falling under the scope of application of the Protocol are addressed in a separate questionnaire on the implementation of the Convention;

(d) States are encouraged to submit laws, regulations, cases and other documents on the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal.

## I. Definition and criminalization requirements under the Smuggling of Migrants Protocol

*Foreword: Those responding to this questionnaire may submit, in lieu of the response, information that has already been provided in the context of the review of the Convention or other Protocols or another review. Please enclose the response provided with the necessary update, if any.*

1. Is the smuggling of migrants criminalized under your domestic legislation (art. 6, para. 1, of the Protocol)?

☐ Yes ☐ No

If the answer is "No", please explain.

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If the answer is "Yes", is smuggling of migrants defined in your country as a criminal offence in accordance with article 3, subparagraph (a), of the Protocol?

.....

.....

2. Is in particular the purpose of obtaining a "financial or other material benefit", as mentioned in the Protocol, a constituent element of the offence?

☐ Yes ☐ No

3. Can the presence of a "financial or other material benefit", as mentioned in the Protocol, when appropriate, constitute an aggravating circumstance of the crime?

☐ Yes ☐ No

Please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

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4. Does your domestic legislation make a distinction between the smuggling of migrants and trafficking in persons?

☐ Yes ☐ No

If the answer is "No", please explain.

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5. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3, subpara. (c), of the Protocol) for the purpose of smuggling of migrants criminalized under your domestic legislation (art. 6, para. 1 (b), of the Protocol), or as a related offence or offences?

☐ Yes ☐ No

If the answer is "Yes", please specify.

.....

6. Is enabling a person who is not a national of or a permanent resident in your country to remain in its territory without complying with the necessary requirements for legally remaining, by using the means referred to in question 5 above or any other illegal means, criminalized under your domestic legislation (art. 6, para. 1 (c), of the Protocol)?

☐ Yes ☐ No

## Ancillary offences (article 6, paragraph 2 (a), (b) and (c) of the Protocol)

7. Does your country's legislation establish as a criminal offence the attempt to commit the offences referred to in questions 1, 5 and 6 above (art. 6, para. 2 (a), of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please cite the applicable law(s) and/or other measure(s), including the applicable sanctions.

.....

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8. Is participating as an accomplice in the offences referred to in questions 1, 5 and 6 above criminalized under your domestic legislation (art. 6, para. 2 (b), of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please cite the applicable law(s) and/or other measure(s), including the applicable sanctions.

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9. Are organizing or directing other persons to commit the offences referred to in questions 1, 5 and 6 above criminalized under your domestic legislation (art. 6, para. 2 (c), of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please cite the applicable law(s) and/or other measure(s), including the applicable sanctions.

.....

.....

10. Does your country adopt such legislative and other measures as might be necessary to establish as aggravating circumstances to any of the offences referred to in questions 1, 4, 6, 8 and 9 above, conduct that endangers, or is likely to endanger,

the lives or safety of the smuggled migrants or that subjects them to inhuman or degrading treatment, including for exploitation (art. 6, para. 3, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please cite the applicable law(s) and/or other measure(s), including the applicable sanctions, if any.

.....

.....

## II. Law enforcement and judicial system

### Matters related to border measures, security and control of documents and legitimacy and validity of documents

11. Has your country adopted any legislative or other appropriate measures to prevent means of transport operated by commercial carriers from being used in the commission of the offence of smuggling of migrants (art. 11, para. 2, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify and provide any available information on whether such measures include establishing the obligation of commercial carriers to ascertain that all passengers are in possession of the travel documents required for entry into the country, as well as on any sanctions in case of violation of such obligation (art. 11, paras. 3 and 4, of the Protocol).

.....

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12. Have your country's competent authorities strengthened border measures in order to prevent and detect the smuggling of migrants (art. 11, para. 1, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify.

.....

.....

13. Does your country's legislation provide for any measures that permit the denial of entry or revocation of visas of persons implicated in the commission of offences related to the smuggling of migrants (art. 11, para. 5, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify.

14. Has your country taken any measures to ensure the adequacy of the quality and the integrity and security of travel or identity documents issued by its competent authorities (art. 12, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify which measures have been adopted.

15. Do your country's competent authorities, in accordance with your domestic law, verify, at the request of another State party, within a reasonable time, the legitimacy and validity of travel or identity documents issued or purported to have been issued in your country's name and suspected of being used for the smuggling of migrants (art. 13, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify.

## III. Protection and assistance measures for smuggled migrants

16. Has your country taken any legislative or other appropriate measures to preserve and protect the rights of smuggled migrants, in particular the right to life and the right not to be subject to torture or other cruel, inhuman or degrading treatment or punishment (art. 16, para. 1, of the Protocol)?

(a) If the answer is "No", please explain.

(b) if the answer is "Yes", please specify.

17. Has your country taken any appropriate measures to afford smuggled migrants protection against violence that may be inflicted upon them by individuals or groups (art. 16, para. 2, of the Protocol), by reason of being the object of conduct set forth in article 6 of the Protocol?

(a) If the answer is "No", please explain.

(b) If the answer is "Yes", please specify.

18. Has your country taken any measures to enable the provision of appropriate assistance to smuggled migrants whose lives or safety are endangered (art. 16, para. 3, of the Protocol)?

(a) If the answer is "No", please explain.

(b) If the answer is "Yes", please specify.

19. Which of the measures below are applied by your country to enable the provision of assistance to migrants smuggled by sea whose lives are in imminent danger (art. 8, para. 5, of the Protocol)?

☐ Review or amendment of legislation, strategies or national action plans to provide basic assistance to smuggled migrants.

☐ Review or amendment of legislation to ensure that the provision of humanitarian assistance to smuggled migrants is not criminalized.

☐ Allocation of resources to support the provision of basic assistance to smuggled migrants whose lives and safety are endangered, ensuring that the State covers the full cost of assistance and that the migrants do not bear it.

☐ Establishment of procedures to provide urgently required medical care, and access to health facilities, food, water and sanitation, as well as other necessary goods and services.

☐ Investigation and prosecution of allegations of failure to assist smuggled migrants whose lives and safety are endangered.

☐ Other measures (please specify):

20. In implementing protection and assistance measures for smuggled migrants, do your country's laws, regulations, national strategies and policies take into account the special needs of women and children (art. 16, para. 4, of the Protocol), with particular regard to access to education for children?

☐ Yes ☐ No

If the answer is "Yes", please specify the measures taken by your country to address the special needs of women and children who have been smuggled.

21. In the case of detention of smuggled migrants, do your country's competent authorities comply with the obligation under the Vienna Convention on Consular Relations to inform those persons without delay about the provisions of the Convention concerning notification to and communication with consular officers (art. 16, para. 5, of the Protocol)?

☐ Yes ☐ No

# IV. Preventive measures

## A. Capacity-building measures (article 14 of the Protocol)

22. Has your country built the capacity of border, immigration and law enforcement officials, diplomatic and consular representatives, to prevent, combat and eradicate migrant smuggling while respecting the rights of smuggled migrants as set forth in the Protocol?

☐ Yes ☐ No

If the answer is "Yes", please specify on which of the below topics the capacity-building was:

- ☐ International and domestic legal framework to combat migrant smuggling.
- ☐ Protecting and assisting smuggled migrants.
- ☐ Assisting and rescuing smuggled migrants whose lives are in imminent danger.
- ☐ Preventing migrant smuggling.
- ☐ International law enforcement cooperation (e.g. joint investigation teams, information-sharing).
- ☐ Other topics (please specify):

Please also provide details on the following types of capacity-building activities.

- ☐ Improving the security and quality of travel documents.
- ☐ Recognizing and detecting travel or identity documents which have been produced fraudulently.
- ☐ Gathering criminal intelligence, relating in particular to the identification of organized criminal groups known to be or suspected to be engaged in migrant smuggling, the methods used to transport smuggled migrants and the means of concealment.
- ☐ Improving procedures for detecting smuggled migrants at conventional and non-conventional points of entry and exit.
- ☐ The humane treatment of migrants and the protection of their rights.

Please provide more details on the aforementioned types of capacity-building activities provided and their frequency.

23. Have you built the capacity of criminal justice institutions to prevent, combat and eradicate migrant smuggling while protecting the rights of the smuggled migrants?

☐ Yes ☐ No

If the answer is "Yes", please specify on which of the below topics the capacity-building was:

- ☐ International and domestic legal framework to combat migrant smuggling.
- ☐ Investigation methods and techniques in migrant smuggling cases.
- ☐ Prosecuting and sentencing of migrant smuggling cases.
- ☐ Financial investigations and prosecutions.
- ☐ Witness protection.
- ☐ The humane treatment of migrants and the protection of their rights.
- ☐ Improving judicial cooperation and mutual legal assistance.
- ☐ Other topics (please specify):

Please provide more details on the type of capacity-building activities provided and their frequency.

24. In what areas would diplomatic and consular representatives need more capacity-building?

25. Does your country cooperate, as appropriate, with international and regional organizations, civil society and other relevant stakeholders to develop and deliver training on combating migrant smuggling and protecting the rights of migrants who have been smuggled (art. 14, para. 2, of the Protocol)?

☐ Yes ☐ No

## B. Other prevention measures (article 15 of the Protocol)

26. Has your country carried out awareness-raising campaigns on the dangers of migrant smuggling?

☐ Yes ☐ No

If the answer is "Yes", for which target audience was it?

- ☐ Law enforcement officials, such as police, immigration and border officials.
- ☐ Navy and military personnel.
- ☐ Magistrates.
- ☐ Parliamentarians.
- ☐ Commercial carriers.
- ☐ Media.
- ☐ Schools and universities.
- ☐ Diaspora communities.
- ☐ Civil society at large.
- ☐ Potential migrants.
- ☐ Others (please specify):

_____

_____

27. Has your country taken measures to reduce the vulnerability to migrant smuggling of communities by combating the root socioeconomic causes of the smuggling of migrants (art. 15, para. 3, of the Protocol)?

If the answer is "No", please explain.

_____

_____

If the answer is "Yes", please specify.

_____

_____

# V. Information exchange, coordination and international cooperation

## A. Information

28. Has your country adopted measure(s) to promote the secure and fast information exchange with other States to implement the provisions set forth in article 10 of the Protocol?

If the answer is "No", please explain.

If the answer is "Yes", please provide more details.

29. Does your country identify information to be restricted in use in the context of international cooperation procedures (art. 10, para. 2, of the Protocol)?

If the answer is "No", please explain.

If the answer is "Yes", please specify.

30. Does your country regularly collect data and analyse trends on the smuggling of migrants (art. 28, of the Convention)?

☐ Yes ☐ No

If the answer is "No", please explain.

If the answer is "Yes", please specify.

## B. Coordination

31. Has your country taken any measures to strengthen cooperation with the border control agencies of other States parties, by, inter alia, establishing and maintaining direct channels of communication (art. 11, para. 6, of the Protocol)?

☐ Yes ☐ No

## C. Cooperation

32. Has your country concluded bilateral or regional agreements or operational arrangements or understandings to allow the establishment of the most appropriate and effective international cooperation to prevent and combat the conducts set forth

in article 6 of the Protocol, and to enhance the provisions of the Protocol among States (art. 17, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please elaborate further on the agreements and arrangements and provide examples of their implementation, and cite also the applicable policy/policies or law(s).

33. Has your country entered into any bilateral or multilateral agreement or arrangement related to migrant smuggling including governing, in whole or in part, the return of smuggled migrants (art. 18, para. 8, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify.

34. With particular regard to the smuggling of migrants by sea, has your state notified the Secretary-General of the United Nations of the authority designated to receive and respond to requests for assistance (art. 8 para 6, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please include relevant information.

35. Has your country adopted specific legislative, administrative and other measures against smuggling of migrants at sea? Please also include information on operational challenges, successes and best practice (arts. 7, 8 and 9 of the Protocol).

☐ Yes ☐ No

If the answer is "Yes", please specify.

36. Does your country provide cooperation to other States according to article 8 of the Protocol (measures against the smuggling of migrants by sea)?

☐ Yes ☐ No

If the answer is "Yes", please specify.

## D. Matters related to the return of smuggled migrants

37. Do your country's competent authorities facilitate and accept, without undue or unreasonable delay, the return of a smuggled migrant who is a national of, or has the right of permanent residence in your country at the time of his/her return (art. 18, para. 1, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please provide more details on the procedure.

38. Do your country's competent authorities facilitate and accept the return of a smuggled migrant who had the right of permanent residence in your country at the time of entry into the receiving State in accordance with its domestic law (art. 18, para. 2, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please provide more details on the procedure.

39. Do your competent authorities respond without undue or unreasonable delay to the request from other States to verify whether a smuggled migrant is a national of, or has the right of permanent residence in, your country (art. 18, para. 3, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please provide more details on the procedure.

40. Do your country's competent authorities issue, at the request of the receiving State party, such travel documents or other authorization as may be necessary to enable the smuggled migrant, after identification of his or her nationality, to travel and re-enter the territory of your country (art. 18, para. 4, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please provide more details on the procedure.

41. What kind of measures are taken in your country to carry out the return of smuggled migrants in an orderly manner? Please specify and provide any available information on how the need to ensure the safety and dignity of smuggled migrants is taken into account in the process of their return (art. 18, para. 5, of the Protocol).

42. Do your country's competent authorities cooperate with relevant international organizations in implementing measures to carry out the return of smuggled migrants (art. 18, para. 6, of the Protocol)?

☐ Yes ☐ No

If the answer is "Yes", please specify with which international organizations you cooperate.

## VI. Difficulties encountered and assistance required

43. Please describe challenges by your country in the implementation of the Smuggling of Migrants Protocol provisions.

If domestic legislation has not been adapted to the Protocol's requirements, what steps remain to be taken? Please specify.

44. Does your country require additional measures, resources, or technical assistance to effectively implement the Protocol?

☐ Yes ☐ No

If the answer is "Yes", please indicate the type of assistance required to implement the Protocol:

- ☐ Assessment of criminal justice response to migrant smuggling.
- ☐ Legal advice/legislative drafting support.
- ☐ Model legislation/regulation(s)/agreement(s).
- ☐ Development of strategies/policies, action plans.

- ☐ Good practices/lessons learned.
- ☐ Capacity-building through the training of criminal justice practitioners and/or the training of trainers.
- ☐ Capacity-building through awareness-raising among judiciary.
- ☐ On-site assistance by a relevant expert.
- ☐ Institution-building/strengthening.
- ☐ Prevention/awareness-raising.
- ☐ Technological assistance and equipment (please be specific).
- ☐ Development of data collection/database(s).
- ☐ Workshops/platform to enhance regional and international cooperation.
- ☐ Specialized tools such as e-learning modules, manuals, guidelines and standard operating procedures.
- ☐ Other (please specify):

45. On what areas would your border, immigration and law enforcement officials in your country need more capacity-building?

46. On what areas would criminal justice institutions in your country need more capacity-building?

47. Are you already receiving technical assistance in these areas?

☐ Yes ☐ No

If the answer is "Yes", please specify the area of assistance.

*Please note, if your State has any additional material that you would like to share, please provide this through the SHERLOC database.*

Country: _____

Date on which the questionnaire was received:

___/___/___
(day/month/year)

The official(s) responsible for responding to the questionnaire is (are):

Ms./Mr. _____

Title and/or position: _____

_____

Agency and/or office: _____

_____

Mailing address: _____

_____

_____

_____

Telephone number: _____

Telefax number: _____

Email address: _____